S.B.CIVIL WRIT PETITION NO.1424/2007

Jagpal Singh & Anr. Vs. State of Raj. & Ors.

DATE OF ORDER :: 27.09.2007

HON'BLE MR.JUSTICE GOVIND MATHUR

Mr. B.S. Sandhu, for the petitioners.
Mr. H.S. Sidhu, for the Caveator.

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The Executive Engineer, Water Resources Division II, Hanumangarh Junction, Hanumangarh by an order dated 17.11.2006 allowed the facility of *'Nikal'* to respondent Ramrakh and denied the same facility to the petitioner for a total period of four years. The Superintending Engineer, Irrigation Circle, Hanumangarh Junction, Hanumangarh by order dated 25.1.2007 affirmed the order passed by the Executive Engineer. Being aggrieved by the same this petition for writ is preferred.

The contention of learned counsel for the petitioner while giving challenge to the orders impugned is that Ramrakh has already availed a facility of *'Nikal'* for a period of four years, and therefore, the petitioner is also entitled for the '*Barabandi*' with the facility of *'Nikal'* for a period of four years.

Heard counsel for the petitioner and also learned counsel for the

caveator – Ramrakh. It is position admitted that the petitioners were having the facility of *'Nikal'* from last two years and they want to continue the same for next two coming years on the count that earlier facility of *'Nikal'* was allowed to Sh. Ramrakh for a period of four years.

In reply to the writ petition it is stated on behalf of the caveator that earlier the facility of *'Nikal'* was not availed by him for a period of four years but as a matter of fact that was for two years for his fields and for two years that was relating to the fields of Pathshala land, that was cultivated by him.

Be that as it may without entering into the controversy as to whether respondent Sh. Ramrakh was having contract to cultivate the land of Pathshala or not I am of the opinion that the facility of *'Nikal'* in the present case is required to be given for a period of two years to all the three cultivators including the petitioners, respondent Ramrakh and the Pathshala. The claim for four years relating to *'Nikal'* is absolutely ill-founded. For a moment event if it is assumed that the facility of *'Nikal'* was earlier given to Sh. Ramrakh for a period of four years then too the respondents cannot be directed to act contrary to the settled law that a parity required is to be maintained among all the cultivators for the grant of *'Nikal'* and to perpetuate an illegality.

Accordingly, this petition for writ is disposed of with a direction to the respondents that they shall maintain parity in grant of the facility of *'Nikal'* to all the cultivators and in the instant matter they will provide facility of *'Nikal'* to the petitioners and respondent Ramrakh and Pathshala each for a period of two years. No order as to cost.

(GOVIND MATHUR),J.

jgoyal